



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 6, 1992

Mr. Philip J. John
Baker & Botts
One Shell Plaza
910 Louisiana
Houston, Texas 77022-4995

OR92-374

Dear Mr. John:

As counsel for the Houston Municipal Employee's Pension Fund (the "fund") you have asked for this office's decision whether certain information concerning the Fund's investments is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID # 15119.

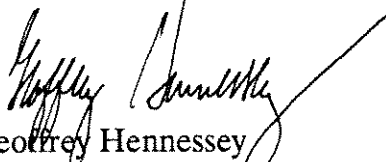
The fund received a request under the Open Records Act for disclosure of 1) the quarterly reports of revenues from the Jersey Meadows Partnership and The First Riverplace Reserve Ltd. Partnership during 1991 and 2) the amounts due or paid the Fund by BSL Gulf Corporation during 1991. The fund claims that this information is excepted from required public disclosure by Open Records Act sections 3(a)(1), 3(a)(4), and 3(a)(10).

Open Records Act section 3(a) states that all information maintained by governmental bodies is public information, except for information which meets one of the Act's enumerated exceptions. Section 3(a)(4) of the Act excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." In a recent ruling letter this office ruled that investment and revenue information maintained by the fund, and similar to the information at issue in the present matter, was excepted from public disclosure by section 3(a)(4) because this information would obviously benefit investment competitors. Tex. Att'y Gen. OR91-606 (1991) (copy enclosed). Therefore, we rule that the information at issue is excepted from required public disclosure for the reasons more fully stated in Ruling Letter No. 91-606. Because we resolve this matter under section 3(a)(4), we do not address your claim that the information is also excepted by section § 3(a)(1) and 3(a)(10).

The requestor claims that he represents fund participants, and the fund participants have a special right of access to information concerning fund investments. The right of fund participants to an accounting from the fund, if any, does not arise under the act, and thus it is not within the authority of this office to determine in this ruling letter. Pursuant to Open Records Act section 7, this office is charged with initially deciding whether governmental information is open to the public under the act. We have no authority to decide whether the fund participants have a special right of access, aside from the public's right under the act, to the information. The special right of access of fund participants would be a right superior to that of the "public" and is not a matter within the purview of the act.

Because prior open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-374.

Very truly yours,



Geoffrey Hennessey
Assistant Attorney General
Opinions Committee

GH/lmm

Ref.: ID #15119
ID #15252
ID #15348
ID #15804
ID #16509

cc: Mr. Horace H. Norman
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